

87th Legislative Session – 2012

Committee: House Judiciary

Monday, February 27, 2012

P - Present
E - Excused
A - Absent

Roll Call

P Abdallah
P Boomgarden
P Feinstein
P Gibson
P Hansen (Jon)
P Killer
P Kopp
P Nelson (Stace)
P Russell
P Tornow
P Turbiville
P Gosch, Vice-Chair
P Hunt, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman, Representative Roger Hunt.

MOTION: TO APPROVE THE MINUTES OF FRIDAY, FEBRUARY 24, 2012

Moved by: Turbiville
Second by: Abdallah
Action: Prevailed by voice vote.

SB 146: provide for an affirmative defense of compulsion for the crime of prostitution.

Proponents: Senator Joni Cutler

MOTION: DO PASS SB 146

Moved by: Nelson (Stace)
Second by: Feinstein
Action: Prevailed by roll call vote. (10-0-3-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Kopp, Nelson (Stace),
Tornow, Turbiville, Hunt

Excused: Killer, Russell, Gosch

SB 148: revise certain provisions relating to battery committed against infants and unborn children.

Proponents: Senator Joni Cutler

MOTION: DO PASS SB 148

Moved by: Nelson (Stace)
Second by: Gibson
Action: Prevailed by roll call vote. (10-0-3-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Kopp, Nelson (Stace),
Tornow, Turbiville, Hunt

Excused: Killer, Russell, Gosch

MOTION: PLACE SB 148 ON CONSENT CALENDAR

Moved by: Hansen (Jon)
Second by: Turbiville
Action: Failed by voice vote.

SB 149: revise certain provisions relating to the conditional release of persons charged with domestic abuse.

Proponents: Senator Joni Cutler
Dianna Miller, SD Network Against Family Violence and Sexual Assault
Lynne Valenti, Department of Social Services

MOTION: AMEND SB 149

On page 2, after line 1 of the printed bill, insert:

" Section 2. That § 25-10-40 be amended to read as follows:

25-10-40. No police officer or sheriff may release a person charged with assaulting a family or household member, as defined in subdivision 25-10-1(2), or violating a protection order, as provided for in this chapter, without providing notice to a committing magistrate judge or circuit court. A committing magistrate judge or circuit court shall determine if bond or other conditions of release are necessary for the protection of the alleged victim.

If the defendant is released without bond, a condition of no contact with the victim shall be stated and incorporated into the terms of the conditional release. Willful violation of any such no contact provision is a Class 1 misdemeanor."

Moved by: Turbiville
Second by: Gosch
Action: Prevailed by voice vote.

MOTION: DO PASS SB 149 AS AMENDED

Moved by: Feinstein
Second by: Gibson
Action: Prevailed by roll call vote. (7-5-1-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Nelson (Stace), Turbiville

Voting No: Kopp, Russell, Tornow, Gosch, Hunt

Excused: Killer

SB 183: establish the elements of the offense of juvenile sexting and to provide a penalty therefor.

Proponents: Senator Mike Vehle
W. Jesse Weins, Self, Mitchell
Paul Bachand, SD State's Attorneys Association

MOTION: AMEND SB 183

183ra

On page 1, line 10, of the printed bill, delete "an affirmative defense to the offense" and insert "not an act".

On page 1, line 10, delete "that" and insert "if".

On page 1, line 11, delete "that" and insert "if".

On page 1, line 12, delete "that" and insert "if".

On page 1, line 13, delete "an affirmative defense to the offense" and insert "not an act".

On page 1, line 14, after "sexting" delete "that" and insert "if".

Moved by: Tornow
Second by: Nelson (Stace)
Action: Prevailed by voice vote.

MOTION: DO PASS SB 183 AS AMENDED

Moved by: Russell
Second by: Hansen (Jon)
Action: Prevailed by roll call vote. (12-0-1-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Hansen (Jon), Killer, Kopp, Nelson (Stace), Russell, Tornow, Turbiville, Gosch, Hunt

Excused: Gibson

SB 141: revise the legal definition of the term, domestic abuse.

Hearing on this bill was continued from the meeting of February 24, 2012, at which time proponent testimony was presented. There was no opponent testimony presented.

MOTION: AMEND SB 141

141rc

On page 1, line 9, of the Senate Judiciary Committee engrossed bill, delete "partner".

On page 1, line 12, delete "partners".

Senator Deb Peters spoke to the Amendment.

Moved by: Russell
Second by: Nelson (Stace)
Action: Withdrawn.

Representative Boomgarden requested that the committee open SB 141 to previous motions.

LRC Staff, Reuben Bezpaletz stated it was not necessary to do this.

Chairman, Representative Hunt stated that enough time had passed since prior hearing of the bill and opened the floor to motions.

MOTION: DO PASS SB 141

Moved by: Abdallah
Second by: Gibson
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION TO TABLE SB 141

Moved by: Russell
Second by: Nelson (Stace)
Action: Failed by roll call vote. (5-8-0-0)

Voting Yes: Kopp, Nelson (Stace), Russell, Tornow, Hunt

Voting No: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Killer, Turbiville, Gosch

MOTION: SUBSTITUTE MOTION AMEND SB 141

141rd

On page 1, line 9, of the Senate Judiciary Committee engrossed bill, delete ", dating,".

Moved by: Hansen (Jon)
Second by: Tornow
Action: Prevailed by voice vote.

MOTION: DO PASS SB 141 AS AMENDED

Moved by: Abdallah
Second by: Turbiville
Action: Prevailed by roll call vote. (8-5-0-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Killer, Turbiville, Gosch

Voting No: Kopp, Nelson (Stace), Russell, Tornow, Hunt

SUMMER STUDY TOPIC

Chairman, Representative Hunt asked if there were any Summer Study recommendations.

Representative Nelson suggested the following topic for Summer Study:

Rape Statute in South Dakota, South Dakota vs Jones.

The Chair asked if there was a consensus on this Summer Study. There was only one objection, thus, it will be submitted to the Executive Board.

MOTION: ADJOURN

Moved by: Nelson (Stace)
Second by: Hansen (Jon)
Action: Prevailed by voice vote.

Bonnie Fischer
Committee Secretary

Roger W. Hunt, Chair